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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x  
4 UNITED STATES OF AMERICA

5 v.

23 CR 320 (GHW)  
Conference

6 JOSEPH DUPONT, SHAWN CRONIN,  
7 SLAVA KAPLAN, PAUL FELDMAN

8 Defendants

9 -----x

10 New York, N.Y.  
11 July 24, 2023  
12 11:00 a.m.

13 Before:

14 HON. GREGORY H. WOODS

District Judge

15 APPEARANCES

16 DAMIAN WILLIAMS

United States Attorney for the  
Southern District of New York

17 SARAH MORTAZAVI

Assistant United States Attorney

18 SPEARS & IMES LLP

Attorney for Defendant Dupont

19 MAX C. NICHOLAS

20 LAW OFFICES OF AIDALA BERTUNA & KAMINS PC

Attorney for Defendant Cronin

21 ARTHUR L. AIDALA

22 LOWENSTEIN SANDLER

Attorney for Defendant Kaplan

23 RACHEL MAIMIN

24 BACHNER & ASSOCIATES PC

Attorney for Defendant Feldman

25 MICHAEL F. BACHNER

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1 (In open court; case called)

2 DEPUTY CLERK: Counsel, please state your appearance  
3 for the record.

4 MS. MORTAZAVI: Good morning, your Honor.  
5 Sarah Mortazavi for the government.

6 THE COURT: Thank you. Good morning.

7 MR. NICHOLAS: Good morning, your Honor.

8 Max Nicholas from Spears & Imes for Mr. Dupont, and my  
9 colleague, Michael Donahue, is in the well.

10 THE COURT: Thank you.

11 MR. AIDALA: Good morning, your Honor.

12 Arthur Aidala from Aidala, Bertuna and Kamins for  
13 Mr. Cronin.

14 THE COURT: Thank you.

15 MR. MAIMIN: Good morning, your Honor.

16 Rachel Maimin of Lowenstein Sandler for Dr. Stanley  
17 Kaplan.

18 THE COURT: Thank you.

19 MR. BACHNER: Good morning, your Honor.

20 Michael Bachner, Bachner & Associates PC on behalf of  
21 Dr. Paul Feldman.

22 THE COURT: Very good. Thank you very much.

23 Thank you all for being here. Each of the defendants  
24 are also present with their counsel.

25 Let me just describe for you briefly what I expect to

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1 accomplish today. I understand that each of the defendants has  
2 already been presented before the magistrate judge and had been  
3 arraigned with respect to the charged offenses. So my agenda  
4 here is relatively straightforward.

5 I am going to hear from the government regarding the  
6 nature of the case. We will talk about discovery and the  
7 timeline for its production, and then we'll talk about what is  
8 going to happen next in the case.

9 Let me start with you first, if I can, please, counsel  
10 for the United States. Counsel, what can you tell me about the  
11 nature of the case as a whole?

12 MS. MORTAZAVI: Certainly, your Honor.

13 This case involves insider trading and various  
14 securities fraud-related charges that are outlined in the  
15 speaking indictment in connection with the trading  
16 non-material, nonpublic information regarding an upcoming  
17 acquisition or a then-upcoming acquisition of a pharmaceutical  
18 company by a larger pharmaceutical company. That is, in  
19 essence, the nature of the case.

20 There have been several search warrants that were  
21 executed over the course of this investigation, including in  
22 two iCloud accounts, physical phones that were seized from each  
23 defendant, and a social media account, as well as geo-location  
24 information for the defendants.

25 The bulk of the production consists of the returns

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1 from those search warrants. Pardon me. I said the bulk of the  
2 production. I meant the bulk of the discovery consists of the  
3 returns from those search warrants, as well as grand jury  
4 subpoena returns that were obtained over the course of the  
5 investigation.

6 THE COURT: Thank you.

7 Counsel for the United States, at this point do you  
8 anticipate filing any superseding indictments adding defendants  
9 or additional charges?

10 MS. MORTAZAVI: Not at this time, your Honor.

11 THE COURT: Thank you.

12 You have described the nature of the discovery  
13 generally. When do you expect you will be able to turn all of  
14 it over to each of the defendants and their counsel?

15 MS. MORTAZAVI: We have made or we've prepared an  
16 initial production of discovery that has already been turned  
17 over to two of four defendants. We are working out the  
18 logistics with the remaining two. We have second sizable  
19 production that is approaching one terabyte of data that we are  
20 in the process of finalizing and expect to send that out in the  
21 next two weeks, in which case that will be, barring any  
22 undiscovered documents in the course of reviewing our files  
23 consistent with our disclosure obligations, the totality of the  
24 discovery in this case.

25 THE COURT: Good. Thank you.

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1           So I understand that the government will have  
2           completed its production of the discovery that it currently has  
3           in its possession and control within about two weeks from now.

4           Let me hear from each of the counsel for the  
5           defendants about your views regarding appropriate next steps  
6           given that timeline and the quantity of discovery materials  
7           that the government has and expects to hand over to you.

8           Let me start, if I can, with Mr. Nicholas. Counsel,  
9           what's your view?

10           MR. NICHOLAS: Thank you. Good morning, your Honor.

11           Your Honor, my understanding is that the government --  
12           well, the government has proposed to counsel for the defendants  
13           to request of the Court a conference in roughly 60 days where  
14           by that time we will have gotten the discovery, and we will be  
15           able to, I think, give a report to the Court on our progress  
16           with it. We may -- I don't know if we will be in a position at  
17           that time to say whether or not there are motions that by that  
18           time we anticipate making or not, but I agree with the  
19           government that a conference in 60 days, a status conference  
20           makes a lot of sense as a next step.

21           THE COURT: Thank you. Is that enough time, given the  
22           quantum of discovery -- the quantity of discovery that the  
23           government has described? I note that a number of the  
24           defendants are coming in from out of town for these  
25           conferences, so I don't want to cause you all to come here

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1 unnecessarily early. The report will be that you won't have  
2 completed the discovery materials or your review of the  
3 discovery materials by that time.

4 Counsel, what do you think?

5 MR. NICHOLAS: Your Honor, I certainly would have no  
6 issue with more time. I can't tell the Court that we will have  
7 completed review of discovery within 60 days. So while I'm  
8 very comfortable having a status conference with the Court at  
9 that time, I think if the Court wishes the next conference to  
10 happen when we've reviewed all of the discovery, then I think  
11 maybe something closer to 120 days makes a little more sense,  
12 but I'm comfortable either way. Whenever the Court wants to  
13 check in with everyone is fine with us.

14 THE COURT: Thank you.

15 Let me hear from counsel for each of the remaining  
16 defendants.

17 Counsel?

18 MR. AIDALA: Yes, your Honor. Thank you.

19 I could guarantee you that I will not have reviewed  
20 two terabytes of materials. I mean, I think I am entitled to a  
21 little vacation during the month of August, so it really  
22 depends on what the government had in mind. If the government  
23 just had in mind a status update at the end of September to see  
24 how far we are and to set a calendar by the Court, that's fine.  
25 If the Court just wants to skip over that step and say, okay,

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1 let's pick a date where you have reviewed all of the discovery  
2 and what are the next steps, then I would think a date in  
3 November would be more appropriate than a date in September.

4 THE COURT: Thank you.

5 Let me move on. Counsel?

6 MR. MAIMIN: We agree with Mr. Nicholas, your Honor.

7 THE COURT: Thank you.

8 Counsel?

9 MR. BACHNER: Your Honor, we agree with Mr. Nicholas  
10 as well. Of course we could always notify the Court by letter  
11 on how we're doing. If we think the September date is not  
12 feasible, advise the Court we need another 60 days, but however  
13 the Court would like it.

14 THE COURT: Thank you.

15 Let me turn to counsel for the United States.  
16 Counsel, what's your view? My preference would be to have a  
17 conference that will be productive, but let me hear from you.

18 MS. MORTAZAVI: Certainly, your Honor.

19 Mr. Bachner proposed what was going to be the  
20 government's response, which is that we calendar a date 60 days  
21 from today, and if the parties in their discussions leading up  
22 to that conference determine that more time is necessary just  
23 to set a briefing schedule or a trial date or just a calendar  
24 for the proceedings in this matter, then we can write to the  
25 Court and seek an adjournment of that date. But the government

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1 does not feel strongly in that view. If the Court's preference  
2 is to set a conference date in November and, conversely, have  
3 the parties inform the Court if there has been any change in  
4 circumstances that necessitates a sooner conference, we're  
5 happy to proceed in that manner instead.

6 THE COURT: Thank you. Good.

7 Bear with me for just a moment.

8 Counsel, I'm going to propose, given what I have heard  
9 about the extent of the discovery here and the nature of the  
10 charges, that we schedule a conference about four months from  
11 now. If any of you prefer to reconvene sooner, I'm happy to do  
12 that. Let me just say why I'm making that proposal. Again,  
13 I'm happy to set an earlier date if any party would like to  
14 come before me before then.

15 My hope is that at the next conference, we will be  
16 able to hear from counsel for each of the defendants about the  
17 nature of any motions that you expect to file, and that we  
18 would be able to take that opportunity to set a motion  
19 schedule, a hearing date, if necessary, and work toward  
20 scheduling a trial.

21 I have heard from counsel for the defendants that you  
22 do not expect that you will have had the opportunity to review  
23 two terabytes of information within the two-month period  
24 originally proposed, particularly given that one month of those  
25 two months is, as counsel has noted, during the month of



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1 August.

2 So that is my proposal. I am happy to hear from any  
3 of you if you prefer to proceed in the other way. If so,  
4 please just let me know.

5 Counsel for the government, any objection to  
6 proceeding in that way?

7 MS. MORTAZAVI: No, your Honor.

8 THE COURT: Thank you.

9 Counsel?

10 MR. NICHOLAS: No. Thank you, your Honor.

11 THE COURT: Thank you.

12 Counsel?

13 MR. AIDALA: No, Judge.

14 THE COURT: Thank you.

15 MR. MAIMIN: No, your Honor.

16 THE COURT: Thank you.

17 MR. BACHNER: No, Judge.

18 THE COURT: Ms. Joseph, can I ask you to please  
19 propose a date about four months from now?

20 DEPUTY CLERK: November 28, 2023 at 11:00 a.m.

21 THE COURT: Counsel, does that date and time work for  
22 each of you?

23 MS. MORTAZAVI: No objection from the government.

24 THE COURT: Thank you.

25 MR. NICHOLAS: Yes for Mr. Dupont.

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1 THE COURT: Thank you.

2 MR. AIDALA: Thank you, your Honor.

3 MR. MAIMIN: Yes, your Honor.

4 MR. BACHNER: All good, Judge.

5 THE COURT: Very good. Thank you all very much.

6 So I look forward to seeing you back here on  
7 November 28, 2023. At that point, as I said earlier, my  
8 expectation is that we will be in a position talk about any  
9 motions that any defendant expects to file, we will set a  
10 motion schedule and a hearing date, and potentially talk about  
11 trial dates.

12 If even that amount of time isn't sufficient for the  
13 parties to complete your review of the materials and to come  
14 prepared to take up that agenda, please feel free to write me  
15 jointly in accordance with my individual rules to request an  
16 extension of that conference date.

17 Is there anything else that any party would like to  
18 raise apart from the speedy trial clock at this time?

19 First from the government.

20 MS. MORTAZAVI: Nothing apart from exclusion of time,  
21 your Honor.

22 THE COURT: Thank you.

23 Counsel for each of the defendants, is there anything  
24 else that any of you would like to raise?

25 MR. NICHOLAS: No, your Honor.

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1 THE COURT: Thank you.

2 MR. AIDALA: No, Judge.

3 THE COURT: Thank you.

4 MR. MAIMIN: No thank you, your Honor.

5 MR. BACHNER: Unless I missed it, the time, your  
6 Honor, on the 28th of November?

7 DEPUTY CLERK: 11:00 a.m.

8 THE COURT: Thank you.

9 Counsel for the United States, is there an  
10 application?

11 MS. MORTAZAVI: Yes, your Honor. We move to exclude  
12 time under the Speedy Trial Act to provide the defendants an  
13 opportunity to review the discovery and contemplate any  
14 pretrial motions, and we think that such exclusion of time is  
15 in the best interest of justice and outweighs the interests of  
16 proceeding on a speedy trial schedule in this case.

17 THE COURT: Thank you.

18 Counsel for each of the defendants, do you consent to  
19 the exclusion of time?

20 MR. NICHOLAS: Yes, your Honor.

21 MR. AIDALA: Yes, Judge.

22 MR. MAIMIN: Yes, your Honor.

23 MR. BACHNER: I do, your Honor.

24 THE COURT: Thank you.

25 I will exclude time from today until November 28,

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1 2023. After balancing the factors specified in 18 United  
2 States Code, Section 3161(h)(7), I find that the ends of  
3 justice served by excluding time outweigh the best interest of  
4 the public and each of the defendants in a speedy trial because  
5 it will allow time for the production of the discovery  
6 materials and the review of those materials by each of the  
7 defendants and their counsel as well as time for each of the  
8 defendants to consider any potential motions in the case.

9 Counsel, anything else for us to take up before we  
10 adjourn?

11 First counsel for the government.

12 MS. MORTAZAVI: No, your Honor. Thank you.

13 THE COURT: Thank you.

14 Counsel?

15 MR. NICHOLAS: No. Thank you, your Honor.

16 THE COURT: Thank you.

17 MR. AIDALA: No, your Honor. Enjoy the rest of your  
18 summer.

19 THE COURT: Thank you.

20 MR. MAIMIN: No. Thank you, Judge.

21 MR. BACHNER: No. Thank you, Judge.

22 THE COURT: Good. Thank you all very much. This  
23 proceeding is adjourned.

24 (Adjourned)  
25